

REMARKS

Claims 1-32 and 35 are currently pending in the subject application, and are presently under consideration. Favorable reconsideration of the application is requested in view of the comments herein.

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I. Rejection of Claims 1-2, 4-21, 23-35 Under 35 U.S.C. 103(a)

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Claims 1-2, 4-21, 23-35 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Rom (US Patent No. 5,450,616) in view of Fischer, *et al.* (US Patent No. 5,768,605). It is respectfully submitted that this rejection be withdrawn for at least the following reasons.

Neither Rom nor Fischer teach or suggest transmitting a first portion of a data packet at a first transmission power and transmitting a second portion of the data packet at a second transmission power, as recited in independent claims 1, 19, 29, 32, and 35.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the cited references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Furthermore, the cited references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the cited art, not in applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In the Office Action dated January 30, 2002, the Examiner conceded that Rom does not teach this element and thus relies on Fischer *et al.* to make up for the deficiencies of Rom. In particular, the Examiner cites to Figure 1, column 2, lines 56-67, and column 3, lines 1-10 of Fischer *et al.* However, in the cited portions, Fischer *et al.* is merely explaining what a PLCP header and PLCP preamble are and what purpose they play in IEEE standard 802.11. Fischer *et al.* does not teach transmitting the PLCP header at one transmission power and the data portion at a second transmission power, as intimated by the Examiner.

Moreover, Fischer *et al.* is concerned with a timing sequence for ramping up a transmitter *before sending data* and ramping the transmitter down *after sending data*, rather than transmitting two different portions of a data packet at two different transmission powers (column 7, lines 37-41). There is no mention of ramping up or ramping down while data is being sent (column 6, lines 62-67, column 7, lines 1-4).

Accordingly, the combination of Rom and Fischer *et al.* does not teach or suggest all the claim limitations of the subject application and thus, does not make obvious claims 1-2, 4-21, and 23-35. Withdrawal of this rejection and allowance of claims 1-2, 4-21, and 23-35 are respectfully requested.

II. Objection of Claims 3 and 22

Claims 3 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3 and 22 respectively depend from claims 1 and 19, which are believed to be allowable for the aforementioned reasons. Accordingly, claims 3 and 22 are not obvious over the combination of Rom and Fischer *et al.* Withdrawal of this rejection and allowance of claims 3 and 22 are respectfully requested.

CONCLUSION

The present application is believed to be condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number listed below.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Respectfully submitted,

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